

**A RESOLUTION**

**BY PUBLIC SAFETY & LEGAL ADMINISTRATION COMMITTEE**

**A RESOLUTION AUTHORIZING THE  
SETTLEMENT OF THE CLAIM OF MANCE  
C. IRVIN IN THE AMOUNT OF \$3,000.00  
AGAINST THE CITY OF ATLANTA  
ARISING FROM A SEWER BACK UP.**

**01-*R*-1420**

**WHEREAS**, MANCE C. IRVIN has filed a claim against the City of Atlanta seeking damages arising out of a sanitary sewer back up to his property located at 211 Hemphill School, NW, Atlanta, Georgia; and

**WHEREAS**, property owned by MANCE C. IRVIN has been damaged due to a storm water and storm sewer overflow caused by a blocked storm drain during heavy rainfall; and

**WHEREAS**, the City of Atlanta was on notice of said nuisance, but failed to improve storm water flow prior to the January 4, 1999 occurrence; and

**WHEREAS**, inasmuch as the facts disclosed indicate said claim is not based on a claim of negligence, but is a nuisance which is not subject to a defense of sovereign immunity under the laws of the State of Georgia; and

**WHEREAS**, the claimant has asserted damages in the amount of \$3,000.00 and has agreed to accept this sum in full and complete satisfaction and settlement of his claim against the City of Atlanta; and

**WHEREAS**, the City Attorney has recommended that the claim of MANCE C. IRVIN, be settled for the sum of \$3,000.00; and.

**WHEREAS**, this claim was previously adversed by City Council on July 17, 2000.

**THEREFORE, BE IT RESOLVED** that the Council of the City of Atlanta, Georgia that Resolution number 00-R-1032 be hereby rescinded and that \$3,000.00 be paid by the City of Atlanta to MANCE C. IRVIN, in satisfaction of any and all claims he may have stemming from damages sustained to his property on or about January 4, 1999, at 211 Hemphill School, NW, and that the City Attorney prepare appropriate releases.

**BE IT FURTHER RESOLVED** that the Chief Financial Officer is hereby authorized to pay the above mentioned sum from account number 2J01/529017/T31001.

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 99L0266

Date: August 31, 2001

Claimant /Victim MANCE C. IRVIN  
BY: (Atty) (Ins. Co.) \_\_\_\_\_  
Address: 211 Hemphill School Road, NW, Atlanta, Georgia 30331  
Subrogation: \_\_\_\_\_ Claim for Property damage \$ 3,000.00 Bodily Injury \$ \_\_\_\_\_  
Date of Notice: 5/3/99 Method: Written, Proper X Improper \_\_\_\_\_  
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X  
Date of Occurrence 1/4/99 Place: 211 Hemphill School Road, NW  
Department PUBLIC WORKS Division Sewer Operations  
Employee involved \_\_\_\_\_ Disciplinary Action: \_\_\_\_\_

NATURE OF CLAIM: Claimant alleges he sustained damages to his home from a sewer back up. An investigation determined that the City had notice of a sewer problem at this location prior to the January 4, 1999 occurrence but failed to properly correct it.

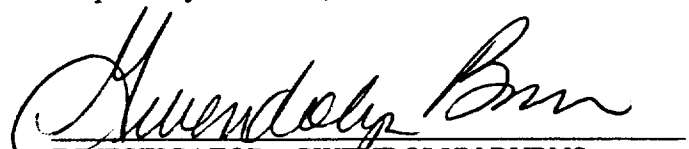
INVESTIGATION:

Statements: City employee \_\_\_\_\_ Claimant X Others \_\_\_\_\_ Written \_\_\_\_\_ Oral X  
Pictures \_\_\_\_\_ Diagrams \_\_\_\_\_ Reports: Police \_\_\_\_\_ Dept Report X Other X  
Traffic citations issued: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_  
Citation disposition: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_

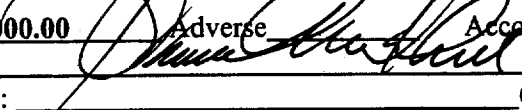
BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial \_\_\_\_\_  
Improper Notice \_\_\_\_\_ More than Six Months \_\_\_\_\_ Other \_\_\_\_\_ Damages reasonable \_\_\_\_\_  
City not involved \_\_\_\_\_ Offer rejected \_\_\_\_\_ Compromise settlement \_\_\_\_\_  
Repair/replacement by Ins. Co. \_\_\_\_\_ Repair/replacement by City Forces \_\_\_\_\_  
Claimant Negligent \_\_\_\_\_ City Negligent X Joint \_\_\_\_\_ Claim Abandoned \_\_\_\_\_

Respectfully submitted,

  
INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay \$ 3,000.00 Adverse \_\_\_\_\_ Account charged: 1A01 \_\_\_\_\_ 2J01 X 2H01 \_\_\_\_\_  
Claims Manager:  Concur/date 8-30-01  
Committee Action: \_\_\_\_\_ Council Action \_\_\_\_\_

COUNCIL OF THE CITY OF ATLANTA  
MUNICIPAL CLERK  
City Hall  
55 Trinity Avenue, S.W.  
Atlanta, Georgia 30335

RE: CLAIM FOR DAMAGES

Today's Date:

BURNS  
05/03/99  
4/27/99

APR 28 1999

04-28-99 P06:01 RCVD  
ENTERED - 5-7-99 - SB  
99L0266 - GWEN BURNS

Dear Municipal Clerk:

This is to notify the City of Atlanta that I have suffered damages in the amount sum of \$ 3,000<sup>00</sup> property and/or \$ \_\_\_\_\_ bodily injury for which I contend the City is liable.

1. Date of incident: 1/4/99 2. Time of Incident: 6:11p 3. Police called: X  
(month/day/year). Yes No
4. Location of incident (including street address): 211 Hemphill School Road NW Atlanta, 30335
5. Name of your insurance company: Allstate Insurance Policy No. 021181240
6. State what and how incident occurred: Sewage and water flooded the basement via a floor drain. Water levels reached as high as 2 1/2 feet. Problem with flooding in the basement is recurring - requesting the city investigate this problem to prevent such incidents in the future.
7. ALL ESTIMATES AND DAMAGES ARE SUBJECT TO INSPECTION. THE MAKING OF FALSE CLAIMS WILL RESULT IN YOUR CLAIM BEING DENIED AND MAY RESULT IN CRIMINAL PROSECUTION!
8. The registered owner must make the claim for vehicle damages, complete the following and attach two (2) estimates of repair and proof of ownership of your vehicle (copy of the current tag receipt or title).

Your vehicle: \_\_\_\_\_  
(Make) (Year) (Tag Number) (Driver's Name)

City vehicle: \_\_\_\_\_  
(Make) (City Driver's Name) (Department/Bureau)

X 9. Witness: Lawana Viers 1047B Graham Court Mableton, GA (404) 713 3251  
(Name) (Address) (Telephone Number)

10. The acknowledgement of this claim in no way waives the sovereign immunity of the City of Atlanta, as granted by State law, nor is it an admission of liability on behalf of the City of Atlanta and / or its employee(s).

11. This claim should be mailed immediately to the address shown above.

I HEREBY SWEAR OR AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND CORRECT.

Signature of Claimant

MANCE C IRVIN

(Print Claimant's Name)

211 Hemphill School Road NW  
(Address)

Atlanta, GA 30331  
(City, State and Zip Code)

(404) 631-2180  
(Work Number)

(404) 696 5161  
(Home Number)